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Before the
Federal Communications Commission
Washington, D.C. 20554

MAY 20 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),) MB Docket No. 03-57
Table of Allotments, FM Broadcast Stations) DA-03-627
Ft. Collins, Westcliffe and Wheat Ridge, Colorado) RM-10565
)
TO: Chief, Audio Division

REPLY COMMENTS OF MEADOWLARK GROUP, INC.

Meadowlark Group, Inc. ("MGI"), by its attorney, hereby respectfully submits its Reply Comments in this proceeding, as follows:

1. On May 5, 2003, MGI submitted its Comments and a Counterproposal in this proceeding. The Counterproposal contemplates the allotment of Channel 248C to the community of Creede, Colorado, as that community's first local broadcast service. Operating from Creede, the proposed station will provide a first reception service to a substantial white area which presently receives no broadcast service, and a second service to a substantial grey area which presently receives only one broadcast service. Therefore, MGI's Counterproposal contemplates a preferential arrangement of allotments, comporting with the FCC's highest allocations priorities. *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

2. MGI's Counterproposal requires that Station KRFX, Denver, Colorado, be downgraded to a Class C0 facility; a process already begun pursuant to a Show Cause Order issued in another proceeding. *Reclassification of License of Station KRFX, Denver, Colorado*, DA 03-585, released March 4, 2003.

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3. Jacor Broadcasting of Colorado, Inc., the licensee of Station KRFX, has sought to defeat reclassification by filing an application for full Class C facilities. However, as shown in the attached Informal Objection, filed by MGI and directed against the application, the application is defective and must be dismissed.

4. At this time, MGI re-states and reaffirms its intention to apply for Channel 248C if that allotment is made at Creede, Colorado. Further, if the facility becomes the subject of an auction, MGI will bid at the auction and, if it is successful in obtaining a construction permit, will build the Channel 248C facility and put it on the air.

Respectfully submitted,

MEADOWLARK GROUP, INC.

May 20, 2003

Law Office of
LAUREN A. COLBY
10 E. Fourth Street
P.O. Box 113
Frederick, MD 21705-0113

By: 

Lauren A. Colby
Its Attorney

EXHIBIT A

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In re Application of)	
)	
JACOR BROADCASTING OF COLORADO, INC.,)	File No. BPH-20030424AAO
KRFX(FM), Denver, Colorado)	Facility ID No. 29731
)	
For Minor Change in Licensed Facility)	
)	
TO: Chief, Media Bureau		

INFORMAL OBJECTION

Meadowlark Group, Inc. ("MGI"), by its attorney, hereby respectfully objects to a grant of the above-captioned application and requests that it be dismissed. In support thereof, it is alleged:

I. The Interest and Standing of Objector in this Proceeding:

1. This proceeding involves an application by Jacor Broadcasting of Colorado, Inc. ("Jacor") to increase the facilities of FM Broadcast Station KRFX, Denver, Colorado, on Channel 278 to full Class C facilities. As indicated in Exhibit B-16A to the application, the application has been filed in response to an Order to Show Cause, released by the FCC on March 4, 2003, which contemplates that Station KRFX be downgraded to a Class C0 facility. *Reclassification of License of Station KRFX, Denver, Colorado*, DA 03-585.

2. On May 5, 2003, MGI filed a Counterproposal in Docket No. 03-57, seeking to

allot Channel 248C to Creede, Colorado, as that community's first local broadcast service. That proposed allotment requires, *inter alia*, that Channel 277A be substituted for Channel 248A at Poncha Springs, Colorado, which, in turn requires that the KRFX operating channel at Denver, Channel 278, be treated as a Class C0 facility.

3. Thus, Jacor's application to upgrade KRFX to a full Class C facility stands in the way of MGI's Counterproposal and MGI is a party in interest or a person aggrieved or whose interests would be adversely affected by a grant of that application. Hence, MGI has standing to intervene in this proceeding and oppose a grant of the application. *FCC v. Sanders Brothers Radio Station*, 309 U.S. 470 (1940).

II. Grant of this Application Requires a Waiver, Which Should Be Denied:

4. Thirty years ago, as a part of the proceedings in Docket 80-90, the FCC staff waived the rules to allow a number of stations in the Denver area to use a unique method of calculating height above average terrain (HAAT). Under the terms of this waiver, the stations, including KRFX, were permitted to use fewer than the normal eight radials for such calculations and were permitted to exclude certain radials over high terrain which would have had the effect of significantly reducing the apparent HAAT.

5. When the time came to adopt the new Class 0 rules, the Commission remarked that where downgrading petitions or applications were filed affecting these "Denver Cases", the staff would have to carefully consider whether to continue these waivers. *Streamlining of Radio Technical Rules*, 15 FCC Rcd 21,649 (2000), at pps. 21666-21667.

6. Here, Jacor is requesting an upgrade at Station KRFX from a HAAT of 320 meters to a HAAT of 487 meters. But in actuality, the proposed upgrade will achieve a true HAAT of only

237.75 meters. This is so because, in calculating the proposed HAAT of 487 meters, Jacor's engineers have used only four of the eight standard radials. Application, Exhibit 29. They have, in substance, requested an extension of the "Denver Waiver" granted some 30 years ago.

7. There is no reason to extend the waiver and there are plenty of reasons not to. Jacor and its predecessors have had 30 years in which to upgrade KRFX to a full Class C facility and have never done so. In the meantime, the requirement to protect KRFX as a full Class C serves to frustrate meritorious proposals such as the one advanced by MGI in Docket No. 03-57 - a proposal which will not only provide a first local service to a deserving community but will also provide a first broadcast service to a substantial populated area which currently lacks any reception service and to another substantial populated area which currently has only one reception service.

8. Secondly, and perhaps even more importantly, KRFX cannot possibly achieve true Class C status at its present site. That site is located on Lookout Mountain in Jefferson County. The zoning regulations in that county prevent the erection of the tall towers needed for a true Class C facility. The FCC doesn't have to take our word for that. In a recent DTV proceeding the Commission, itself, observed that none of the DTV stations on Lookout Mountain have been able to complete construction because of these regulations. *Requests for Further Extension of the Digital Construction Deadline*, 2003 WL 252588, FCC 03-02 (2003) at paragraph 9. See also, *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 2003 WL 168409 at n. 12.

9. Finally, as shown by Exhibit A, attached, prepared by Frank McCoy, not all of the Denver area stations have "Denver Waivers". Stations KUVO and KVOD on Lookout Mountain actually have more HAAT, based on the standard eight radial method of calculation, than does

KRFX. So does Station KJCD, Longmont, on Green Mountain. Yet, these three stations are classified and protected as Class C1 facilities. It makes no sense for KRFX to be treated any differently.

10. Denial of the applicant's requested Denver Waiver will require dismissal of the application because, to the extent that it purports to specify Class C facilities, it does not. Therefore, MGI respectfully requests that the above-captioned application BE DISMISSED.

Respectfully submitted,

MEADOWLARK GROUP, INC.

May 19, 2003

Law Office of
LAUREN A. COLBY
10 E. Fourth Street
P.O. Box 113
Frederick, MD 21705-0113

By: _____
Lauren A. Colby
Its Attorney

EXHIBIT A

Table of FM Facilities and Waivers of HAAT Requirements by Tower Site

All Heights in Meters

Stations with Class C Licenses and C1 Facilities in **Bold**

Lookout Mountain

Call	City	FCC Class	Channel	Height AMSL	FCC HAAT	8-Radial HAAT	Difference
KUVO	Denver	C1	207	2333	278	276	2
KVOD	Denver	C1	211	2333	277	276	1
KFMD	Denver	C	239	2259	490	241	249
KQMT	Denver	C	258	2262	495	242	253
KOSI	Denver	C	266	2262	495	242	253
KRFX	Denver	C	278	2142	320	123	197
KALC	Denver	C	290	2293	448	273	175
KBPI	Denver	C	294	2316	301	296	5

Req'd Class C 450 Meters HAAT = 2,469 Meters AMSL

Tallest Tower = 2476.1* Meters; Reg# 1027718; Owner CBS-TV

Green Mountain

Call	City	FCC Class	Channel	Height AMSL	FCC HAAT	8-Radial HAAT	Difference
KJCD	Longmont	C1	282	2081	206	205	1
KQKS	Lakewood	C	298	2081	365	205	160

Req'd Class C 450 Meters HAAT = 2,325 Meters AMSL

Ground Elev. At Site = 2039 Meters AMSL

Mount Morrison

Call	City	FCC Class	Channel	Height AMSL	FCC HAAT	8-Radial HAAT	Difference
KIMN	Denver	C	262	2379	345	346	-1

Req'd Class C 450 Meters HAAT = 2,484 Meters AMSL

Tallest Tower = 2428.1* Meters; Reg# 1023484

Squaw Mountain

Call	City	FCC Class	Channel	Height AMSL	FCC HAAT	8-Radial HAAT	Difference
KYGO	Denver	C	253	3302	555	555	0

Req'd Class C 450 Meters HAAT = 3,197 Meters AMSL

Ground Elev. At Site = 3248 Meters AMSL

Eldorado Mountain

Call	City	FCC Class	Channel	Height AMSL	FCC HAAT	8-Radial HAAT	Difference
KBCO	Boulder	C	247	2583	469	475	-6

Req'd Class C 450 Meters HAAT = 2,564 Meters AMSL

Ground Elev. At Site = 2,522 Meters AMSL

*Including obstruction and marking

CERTIFICATE OF SERVICE

I, Traci Maust, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this ____ day of May, 2003, to the offices of the following:

Marissa G. Repp, Esq.
Hogan & Hartson, LLP
555 13th Street, N.W.
Washington, D.C. 20004
(Counsel for Jacor Broadcasting of Colorado, Inc.)

Traci Maust

CERTIFICATE OF SERVICE

I, Traci Maust, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 20th day of May, 2003, to the offices of the following:

Mark N. Lipp, Esq.
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1455 Pennsylvania Ave., N.W.
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(Counsel for Tsunami Communications, Inc., and Radio Beam)

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Traci Maust